

APR 26 2004

1635

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**



In re application: Murray, et al.

Serial No.: 10/001,563

Group Art Unit: 1635

Filed: 10/23/2001

Examiner: ANGELL, JON E

For: AUGMENTATION OF WOUND HEALING  
BY eIF-4E mRNA and EGF mRNA

Attorney Docket No.: 3087.00007

**RESPONSE**

Mail Stop: Non-Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action dated March 25, 2004.

Restriction to one of the following Groups was required under 35 USC §121:

I. Claims 1-8 and 21-24, drawn to a method of augmenting transient protein synthesis from endogenous mRNAs in a cell by delivering mRNA encoding translational regulatory proteins, classified in class 514, subclass 44;

II. Claims 9, 10, 18-20, and 25-28, drawn to a method of augmenting transient protein synthesis in cells by increasing protein synthesis of growth factors from endogenous cellular RNAs and exogenous mRNA delivered to the cell by delivering mRNA encoding growth factors and mRNA encoding translation initiation factors, classified in class 514, subclass 44;

III. Claims 17, 35, 37, and 38, drawn to a composition (i.e. a treatment or a therapeutic) comprising mRNA related to protein production, classified in class 536, subclass 23.1; and

IV. Claims 12-16, 30-34, 36, and 39-42, drawn to a composition (i.e. a treatment or a therapeutic) comprising mRNA related to protein production and mRNA encoding a growth factor, classified in class 536, subclass 23.1.

Applicants provisionally elect Group I, claims 1-8 and 21-24 for prosecution purposes, with traverse. Applicants hereby conditionally withdraw claims 9-20 and 25-42 from prosecution, without prejudice, and request reconsideration of the restriction requirement.

Applicants traverse the restriction requirement based on the following grounds. It is respectfully submitted that the restriction requirement practice was established to promote efficiency of prosecution in the Patent Office. All four groups of claims relate to healing wounds by augmenting protein synthesis. The claims of Groups I and II relate to a method of augmenting transient protein synthesis and moreover, are classified in the same class, 514, and the same subclass, 44. Also, the claims of Groups III and IV relate to a composition comprising mRNA related to protein production and moreover, are classified in the same class, 536. Since there is a great amount of cross-classification amongst the sub-classes in this class, it is respectfully submitted that examination of all of the claims in a single application would be efficient, thereby promoting the grounds for the establishment of the restriction requirement practice. Hence, it is respectfully submitted that restriction should not be required and that Applicants have traversed the restriction requirement. However, as stated above, Applicants have elected the claims of Group I and provisionally withdrawn claims 9-20 and 25-42, without prejudice, pending reconsideration of the restriction requirement.

The application is now in condition for allowance, which allowance is respectfully solicited.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.



Respectfully submitted,

KOHN & ASSOCIATES, PLLC

A handwritten signature in black ink, appearing to read "Kenneth I. Kohn".

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Dated: April 23, 2004

**CERTIFICATE OF MAILING BY "EXPRESS MAIL"**

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I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office To Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop: Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Connie Herty

A handwritten signature in black ink, appearing to read "Connie Herty". Below the signature is a printed name "Connie Herty".